

**DEPARTMENT OF PUBLIC SAFETY—COMMERCIAL  
DRIVER-TRAINING SCHOOLS AND  
INSTRUCTORS—LICENSING**

**CHAPTER 332<sup>89</sup>**

**H. B. No. 568**

**An Act relating to the licensing of commercial driver-training schools, supervisory driver-training instructors, and driver-training instructors by the Department of Public Safety; providing a penalty; and declaring an emergency.**

*Be it enacted by the Legislature of the State of Texas:*

**Definitions of words and phrases**

Section 1. The following words and phrases when used in this Act shall, for the purposes of this Act, have the meanings respectively ascribed to them in this section:

(a) "Commercial driver-training school" or "school" means any enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition for such services.

(b) "Commercial driver-training school branch office" is a training facility operated by a commercial driver-training school at a different location than the home training facility where the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition therefor is carried on.

(c) "Driver-training instructor" or "instructor" means any person who for hire or for tuition teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles.

(d) "Department" means the Department of Public Safety of this state, acting directly or through its duly authorized officers and agents.

(e) "Hearing Officer" is an officer or employee of the Department appointed by the Director, which officer or employee shall have a minimum of five years' experience as a supervisor and a thorough knowledge of this Act and the rules and regulations of the Department relative thereto.

(f) "Motor vehicle" includes every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(g) "Supervisory driver-training instructor" or "supervisory instructor" means any person who, for hire or tuition, conducts classes of, gives demonstration to, or supervises practice of persons learning to become driver-training instructors, and to operate or drive motor vehicles.

**A license required for commercial driver-training school**

Sec. 2. No person, firm, association, partnership, or corporation shall operate a commercial driver-training school after January 1, 1968, unless a license as a commercial driver-training school has been secured from the Texas Department of Public Safety, provided that training or classes conducted by colleges, universities, high schools, and junior high schools

<sup>89</sup>. Vernon's Ann.Civ.St. art. 4413(29c), §§  
1-15.

for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

**Application for commercial driver-training school license**

Sec. 3. The application for a license shall be made on forms supplied by the Texas Department of Public Safety and must state specifically the name and address of such school or training facility, and give the name and address of the person, each member of the firm or association, each member of the partnership or corporation, and of each director and officer of such corporation. The application shall also contain the following information:

(a) The name and address of each branch office of such commercial driver-training school;

(b) The name and address of each instructor;

(c) Such other information relating to the operation of such school as may be required by the Texas Department of Public Safety to insure that the public interest will be protected;

(d) An agreement that the school will be operated in conformity with the rules and regulations established by the Texas Department of Public Safety for the operation of commercial driver-training schools.

Sec. 4. Before the Department of Public Safety shall issue such license, the person, firm, association, partnership, or corporation shall:

(a) Execute a bond in the sum of \$10,000, signed by a solvent guaranty company authorized to do business in the State of Texas, payable to the Texas Department of Public Safety, conditioned that the principal on said bond will:

(1) Carry out and comply with each and all contracts made or entered into by said school or branch school, acting by and through its officers or agents, with any student who desires to enter such school and to take the course in driver-training; and

(2) To pay back to such student all amounts collected for tuition and fees in case of failure on the part of the school to comply with its contracts to give the instruction contracted for, and for the period evidenced by such contract on a pro rata basis.

(b) Maintain motor vehicle liability insurance covering the school, instructors, and any person taking instruction in the amount as prescribed by the Department but in no event less than \$10,000 for bodily injury to or death of one person in any one accident, and \$20,000 for bodily injury to or death of two or more persons in any one accident, and \$5,000 for damage to property in any one accident. In the event the insurance coverage hereinabove referred to is to be cancelled, a copy of the written notice of cancellation must be furnished forthwith to the Director by either registered or certified mail.

(c) Provide adequate office, classroom, and motor vehicle facilities in compliance with the rules and regulations established by the Department of Public Safety to insure that the quality of instruction and training shall not be inimical to the public interest.

(d) Comply with such other rules and regulations as may be promulgated by the Department of Public Safety to insure adequate driver instruction.

**License required for supervisory driver-training instructor  
and driver-training instructor**

Sec. 5. No person shall teach or give driver-training for hire or for tuition, either as an individual or in a commercial driver-training school, or any phase of driver-training or education after January 1, 1968, un-

less a license as a driver-training instructor or supervisory driver-training instructor has been secured from the Department, provided that instructors in classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

**Application for supervisory driver-training instructor's license**

Sec. 6. (a) The application for a license as a supervisory driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a supervisory driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed three semester hours in safety education and three semester hours in driver education or their equivalent;
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as a supervisory driver-training instructor;
- (8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a supervisory driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a supervisory driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 6(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

**Application for driver-training instructor's license**

Sec. 7. (a) The application for a license as a driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed 40 clock hours in safety education and driver-training under the supervision of a supervisory driver-training instructor;
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as an instructor;
- (8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required li-

cense fees, be issued a driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 7(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

#### License fees

Sec. 8. Each application for an original commercial driver-training school or branch office license shall be accompanied by a \$150 investigation fee and upon approval shall pay an annual license fee of \$200. The investigation fee shall be payable only once, at the time of the original application. The license of each commercial driver-training school or branch office may be renewed subject to the same requirements as the original license, and upon payment of the annual renewal license fee of \$200. Each application for an original supervisory instructor's or instructor's license shall be accompanied by an investigation and examination fee of \$50 and upon approval such applicant shall pay an annual license fee of \$25. The investigation and examination fee shall only be payable with the original application. No license fee shall be refunded in the event that the license is suspended or revoked.

The fee for a duplicate license shall be \$2. A duplicate license may be issued to replace an original license if the original is lost or destroyed and an affidavit of such fact is made and filed with the Department.

All licenses issued to commercial driver-training schools, branch offices, supervisory instructors, and driver-training instructors shall expire automatically on December 31 of the calendar year for which the license was issued, unless sooner suspended or revoked as provided by this Act.

All fees collected under this Act shall be deposited in the State Treasury in the Operator's and Chauffeur's License Fund.

A commercial driver-training school or branch office license must be prominently displayed at the place of business of the commercial driver-training school or branch office. The supervisory driver-training instructor and driver-training instructor license must be carried by the instructor at all times while instructing. Each license shall be signed by the Director of the Department of Public Safety and shall be issued under the seal of the Department.

#### Refusal, suspension, revocation grounds

Sec. 9. The Department may suspend, revoke, or refuse a license to any commercial driver-training school or branch school, supervisory instructor or driver-training instructor on any one or more of the following grounds:

(a) When the Department is satisfied that the applicant or licensee fails to meet the requirements to receive or hold a license under this Act;

(b) When the applicant or licensee permits fraud or engages in fraudulent practices either with reference to the application to the Department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public;

(c) When the applicant or licensee fails to comply with the rules and regulations of the Department of Public Safety regarding the instruction of drivers in this state or fails to comply with any section of this Act.

### Hearing

Sec. 10. (a) When there is cause to refuse an application or to suspend or revoke the license of any commercial driver-training school, branch office, supervisory driver-training instructor, or driver-training instructor, the Department, not less than 30 days before refusal, suspension, or revocation action is taken, shall notify such person in writing, in person, or by certified mail at the last address supplied to the Department by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Department. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the Department for this administrative hearing, the Department is authorized to suspend or revoke the commercial driver-training school's, branch office's, supervisory driver-training instructor's, or driver-training instructor's license without a hearing. Upon receipt by the Department of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practical. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or licensee. Administrative hearing in such cases shall be before a qualified Hearing Officer of the Department.

(b) The Department, represented by the Hearing Officer, shall conduct the administrative hearing and the Hearing Officer is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the Department shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

### Judicial review

Sec. 11. Any person dissatisfied with the action of the Department in refusing his application, or suspending or revoking his license, or any other action of the Department, may appeal the action of the Department by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the District Court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the Department and the attorney representing the Department. The court in which the petition of appeal is filed shall determine whether or not the suspension or revocation of the license shall be abated until the hearing shall have been consummated with final judgment thereon, or whether any other action of the Department shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the Department, and the court shall provide the attorney representing the Department with a copy of the petition and order. The Department shall be represented in such appeals by the district or county attorney of the county, or the Attorney General, or any of their assistants. The trial on such appeal shall be de novo as in cases appealed from the justice to the county court.

**Surrender of license**

Sec. 12. Upon the revocation or suspension of any license, the licensee shall within five days surrender the license or licenses to the Department; failure of a licensee to do so shall be a violation of this Act and upon conviction shall be subject to the penalties hereinafter set forth. The Department may restore a suspended license to the former licensee upon full compliance with the provisions of this Act. No suspension invoked hereunder shall be for a period less than 30 days nor longer than one year.

**Proceedings through the Attorney General**

Sec. 13. If any person violates any of the provisions of this Act, the Director of the Department of Public Safety shall, in the name of the State of Texas through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition to the court, if the court or any judge thereof is satisfied by affidavit or otherwise that the person has violated this Act, it may issue a temporary injunction without notice or bond enjoining such continued violation, and if after a hearing it is established that the person violated or is violating this Act the court or any judge thereof may enter a decree perpetually enjoining the violation of or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this section, the court or any judge thereof may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to and not in lieu of all other remedies and penalties provided by this Act.

Sec. 14. No motor vehicle driver-training instruction shall be conducted for hire or tuition unless in a licensed commercial driver-training school or one of its branch offices except as set out in Section 2 and in counties with a population of less than 25,000 where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school.

**Penalties**

Sec. 15. Any person who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a term of not to exceed six months, or both.

Sec. 16. Constitutionality. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Passed by the House on May 1, 1967, by a non-record vote; passed by the Senate on May 19, 1967, by a viva-voce vote.

Approved May 30, 1967.

Effective Aug. 28, 1967, 90 days after date of adjournment.